

Message Text

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PAGE 01 ISLAMA 08908 01 OF 03 190445Z
ACTION NEA-10

INFO OCT-01 ISO-00 HA-05 SSO-00 /016 W
-----107900 190453Z /15/43
O 141210Z SEP 78
FM AMEMBASSY ISLAMABAD
TO SECSTATE WASHDC IMMEDIATE 9037

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C O R R E C T E D C O P Y (TEXT CORRECTED)

EO 11652: NA
TAGS: SHUM PK
SUBJ: 1978 HUMAN RIGHTS REPORT ON PAKISTAN

REF: STATE 320406

1. FOLLOWING IS THE EMBASSY'S SUGGESTED RE-WRITE OF DRAFT 1978
HUMAN RIGHTS REPORT ON PAKISTAN. IT IS CONTROLLED LOU FOR
TRANSMISSION ONLY, THE TEXT IS CONSIDERED UNCLASSIFIED.

2. PAKISTAN. THE MARTIAL LAW REGIME OF ZIA UL-HAQ, WHICH HAS
GOVERNED PAKISTAN SINCE JULY 1977, OVERTHREW THE PREVIOUS
GOVERNMENT OF ZULFIKAR ALI BHUTTO WITH THE ANNOUNCED INTENTION OF
SCHEDULING ELECTIONS WITHIN 90 DAYS. ELECTIONS WERE POSTPONED,
HOWEVER, AND ALTHOUGH THE REGIME HAS COMMITTED ITSELF TO LOCAL
ELECTIONS BEFORE THE END OF 1978 AND TO NATIONAL ELECTIONS IN
1979, NO NEW ELECTION DATES HAVE BEEN SET. MEANWHILE, CHIEF
MARTIAL LAW ADMINISTRATOR GEN. ZIA HAS ENGAGED IN A PROLONGED
DIALOGUE WITH THE COUNTRY'S POLITICIANS, AND, ON THE FIRST
ANNIVERSARY OF HIS TAKEOVER, ANNOUNCED THE ESTABLISHMENT OF A
CIVILIAN GOVERNMENT WITH HIMSELF AT ITS HEAD AND WITH A NUMBER OF
POLITICIANS JOINING. A SUBSEQUENT RESHUFFLE ADDED ADDITIONAL
POLITICIANS AND REMOVED THE LAST OF THE MILITARY OFFICERS (SAVE
ZIA HIMSELF) TO HOLD MINISTERIAL PORTFOLIOS.

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IN ITS EARLY MONTHS IN POWER, THE REGIME RELEASED LARGE NUMBERS
OF POLITICAL PRISONERS DETAINED BY THE BHUTTO GOVERNMENT AND
COMMITTED ITSELF TO INVESTIGATING AND PUNISHING ALLEGED
WRONGDOERS FROM THE BHUTTO YEARS. FOREMOST AMONG THESE IS THE
FORMER PRIME MINISTER HIMSELF, WHO WAS BROUGHT TO TRIAL AND FOUND
GUILTY ON A MURDER-CONSPIRACY CHARGE INVOLVING ONE OF HIS

POLITICAL FOES. THAT CASE IS NOW ON APPEAL TO THE SUPREME COURT. OTHER TRIBUNALS ARE SIFTING EVIDENCE OF CORRUPTION AND MISUSE OF POWER AGAINST BHUTTO ASSOCIATES AS PART OF WHAT THE REGIME HAS DUBBED "THE PROCESS OF ACCOUNTABILITY." WHILE THE GOVERNMENT HAS RECENTLY LIBERALIZED ITS RULES ON POLITICAL ACTIVITY -- IN ANTICIPATION OF ELECTIONS TO PARTY AND POSSIBLY LOCAL BODIES OFFICES LATER THIS FALL -- THERE HAVE BEEN INSTANCES AS WELL, DURING THE LAST TEN MONTHS, OF ARREST AND DETENTION OF POLITICAL FIGURES AND JOURNALISTS OPPOSED TO THE REGIME, PRIMARILY SUPPORTERS OF THE FORMER PRIME MINISTER. THE GOVERNMENT MAINTAINS THAT ITS ACTIONS HAVE BEEN AIMED AT KEEPING PUBLIC ORDER; MAJOR WAVES OF DETENTION IN JANUARY AND MARCH, 1978, FOR INSTANCE WERE AIMED AT PREVENTING A LARGE-SCALE PROTEST BY BHUTTO SUPPORTERS IN JANUARY AND HEADING OFF DEMONSTRATIONS AT THE TIME OF THE BHUTTO SENTENCING IN MARCH. ACTION AGAINST JOURNALISTS HAS BEEN ALMOST EXCLUSIVELY DIRECTED AT TWO PAPERS, ONE IN KARACHI AND ONE IN LAHORE, WHICH ARE BHUTTO PARTY ORGANS.

THERE HAVE BEEN IMPROVEMENTS IN THE CIVIL COURT SYSTEM DURING THE YEAR 19-8, THE SUPREME COURT ITSELF HAS UPHELD THE LEGALITY OF THE MARTIAL LAW REGIME ON A DOCTRINE OF "NECESSITY," THE COURT RETAINS THE RIGHT OF JUDICIAL REVIEW AND, WITH LESSER COURTS, HAS ACTED AGAINST THE KNOWN WISHES OF THE MARTIAL LAW AUTHORITIES, AND THE GOVERNMENT, IN EARLY 1978, RECEIVED A VISIT BY AMNESTY INTERNATIONAL REPRESENTATIVES.

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1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

(A) TORTURE

THE 1971 CONSTITUTION BANS TORTURE, AND THERE HAVE BEEN NO REPORTS OF TORTURE SINCE 1977.

(B) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

THE GOVERNMENT HAS ENDORSED THE ESTABLISHMENT OF TRADITIONAL PUNISHMENTS CODIFIED IN THE SHARIAT, THE MUSLIM TRADITIONAL CODE. IT HAS CARRIED OUT A FEW PUBLIC FLOGGINGS AS A PUNISHMENT FOR SOME LURID CRIMES, BUT MOST FLOGGINGS TAKE PLACE IN PRIVATE. ONE NON-GOVERNMENTAL ORGANIZATION REPORTS THAT AS MANY AS 160 CONVICTED PERSONS MAY HAVE BEEN FLOGGED SINCE THE REGIME CAME TO POWER IN 1977 BUT WE HAVE NO OFFICIAL FIGURES TO CONFIRM OR DENY THIS NUMBER. THE REGIME ALSO ENDORSES THE SHARIAT PRACTICE OF CUTTING OFF THE HAND OF CONVICTED RECIDIVISTIC THIEVES, BUT THERE IS NO EVIDENCE THAT THIS PUNISHMENT HAS ACTUALLY BEEN CARRIED OUT.

(C) ARBITRARY ARRESTS AND IMPRISONMENT

THE REGIME RELEASED THOUSANDS OF PRISONERS INCARCERATED UNDER ITS

PREDECESSORS. SOME CLAIMS PUT THE NUMBER OF POLITICAL PRISONERS UNDER THE BHUTTO REGIME AS HIGH AS 50,000, ALTHOUGH MANY OF THESE WERE RELEASED BY THE BHUTTO GOVERNMENT.

LIMITED PREVENTIVE DETENTION OF PERSONS WHO MIGHT ACT IN A MANNER "PREJUDICIAL" TO THE REGIME IS AUTHORIZED UNDER MARTIAL LAW ORDER (MLO) 12 OF JULY, 1977. CONSEQUENTLY, THERE HAVE BEEN A SUBSTANTIAL NUMBER OF DETENTIONS WITHOUT CHARGE OR TRIAL OR ON GENERAL PUBLIC SAFETY PROVISIONS OF MLO'S OF POLITICAL FIGURES ASSOCIATED WITH THE PREVIOUS REGIME, INCLUDING THE HOUSE ARREST OF FORMER PRIME MINISTER BHUTTO'S DAUGHTER. MOST OF THESE, INCLUDING MISS BHUTTO, HAVE BEEN RELEASED, BUT SOME HAVE BEEN DETAINED MORE THAN ONCE. OTHER OPPOSITION FIGURES HAVE BEEN CHARGED, TRIED AND CONVICTED OF CORRUPTION AND LIKE CRIMES.
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OTHERS FOUND GUILTY OF MISUSE OF POWER ARE BEING DISQUALIFIED TO RUN FOR OFFICE FOR PERIODS UP TO SEVEN YEARS. AN APRIL 1978 AMNESTY INTERNATIONAL (AI) REPORT INDICATES THAT IN JANUARY THERE MAY HAVE BEEN AS MANY AS 2,000 POLITICAL DETAINEES BUT THAT BOTH

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THE COURTS AND THE REGIME ITSELF WERE RELEASING SUCH DETAINEES ON AN ACCELERATED BASIS. A LATER AI REPORT INDICATED NO PRISONERS OF CONSCIENCE IN PAKISTAN.

PRIME MINISTER BHUTTO WAS CONVICTED OF MURDER/CONSPIRACY IN MARCH 1978 AND SENTENCED TO DEATH BY THE LAHORE HIGH COURT, HIS APPEAL

TO THE PAKISTAN SUPREME COURT IS NOW IN PROGRESS. APPEALS HAVE BEEN MADE BY INTERNATIONAL HUMAN RIGHTS GROUPS AND A LARGE NUMBER OF FOREIGN GOVERNMENTS FOR EVENTUAL COMMUTATION OF A DEATH SENTENCE IF UPHELD BY THE SUPREME COURT.

(D) DENIAL OF FAIR PUBLIC TRIAL

DURING THE INITIAL PERIOD OF MARTIAL LAW RULE, THE GOVERNMENT MADE EXTENSIVE USE OF MILITARY TRIBUNALS TO SUPPLEMENT, AND IN SOME CASES TO SUBSTITUTE FOR, THE CIVIL COURTS. THE OVERALL TREND SINCE THEN, HOWEVER, HAS BEEN TO REMOVE THE MILITARY FROM MARTIAL LAW JUSTICE AND TO RELY INCREASINGLY ON CIVIL COURTS. CERTAIN OFFENSES ARE STILL SUBJECT TO TRIAL BY COURT MARTIAL, AND THE MILITARY IS ALSO ASSISTING IN THE TRIBUNALS LOOKING INTO PAST MISDEEDS BY POLITICIANS AND GOVERNMENT OFFICIALS, BUT NEARLY ALL TRIALS TODAY ARE HELD IN CIVIL RATHER THAN MILITARY COURTS. THE PRESENT MARTIAL LAW REGIME WAS VALIDATED BY THE SUPREME COURT OF PAKISTAN IN A DECISION OF NOVEMBER 10, 1977. THAT COURT JUDGMENT, HOWEVER, PLACED LEGAL LIMITATIONS ON THE EXTRA-JUDICIAL ACTS OF THE MARTIAL LAW AUTHORITIES. IT APPEARS THAT THE CIVIL COURTS LIMITED OFFICIAL USE

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ARE REGULARLY ISSUING EFFECTIVE WRITS OF HABEAS CORPUS IN THE CASES OF DETAINED PERSONS AND THAT DETAINEES ARE PERMITTED ACCESS TO CIVILIAN COUNSEL. POLITICAL DETAINEES AND JOURNALISTS DETAINED FOR ANTI-REGIME ACTIVITIES HAVE BEEN PERMITTED ACCESS TO COUNSEL AND CIVILIAN COURTS IN MOST CASES. OTHERS HAVE BEEN DETAINED WITHOUT CHARGE AND SUBSEQUENTLY RELEASED WITHOUT REFERENCE TO THE COURTS.

(E) INVASION OF THE HOME

THERE ARE NO INDICATIONS THAT THE SANCTITY OF THE HOME HAS BEEN VIOLATED BY THE CURRENT REGIME.

2. GOVERNMENT POLICIES RELATING TO THE FULFILLMENT OF SUCH VITAL NEEDS AS FOOD;

SHELTER, HEALTH CARE AND EDUCATION

THE MARTIAL LAW GOVERNMENT OF PAKISTAN IS PUBLICLY COMMITTED TO THE PRINCIPLE OF REDUCING CORRUPTION WHICH IT ALLEGES WAS RAMPANT DURING THE PREDECESSOR REGIME.

ALTHOUGH THE GOVERNMENT IS COMMITTED IN PRINCIPLE TO PROVIDING RESOURCES TO MEET BASIC HUMAN NEEDS AND IS CONTINUING THE U.S. AND OTHER ASSISTANCE PROJECTS FOR HOUSING, EDUCATION AND HEALTH IN RURAL AREAS, IT IS BASICALLY A CARETAKER REGIME AND HAS INSTITUTED FEW, IF ANY, COMPREHENSIVE PROGRAMS OF ITS OWN. THE HEAD OF GOVERNMENT, GENERAL ZIA, HAS STATED THAT HE WISHES TO MAINTAIN A BALANCE BETWEEN THE NEEDS OF PROMOTING INDUSTRIAL INVESTMENT AND THE NECESSITY TO PROVIDE FOR THE RURAL POOR. HOWEVER, BECAUSE OF FINANCIAL CONSTRAINTS AND BUDGETARY

OBLIGATIONS INHERITED FROM THE PREVIOUS REGIME, THE GOP HAS BEEN ABLE TO MAKE ONLY LIMITED HEADWAY TOWARD EXPANDED PROGRAMS FOR THE RURAL POOR.

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3. RESPECT FOR CIVIL AND POLITICAL LIBERTIES INCLUDING:

(A) FREEDOM OF THOUGHT, SPEECH, PRESS, RELIGION, AND ASSEMBLY DURING THEIR FIRST YEAR IN OFFICE, THE MARTIAL LAW AUTHORITIES LIMITED POLITICAL ACTIVITIES AND EXPRESSION THROUGH A SERIES OF MARTIAL LAW ORDERS AND REGULATIONS. IN AUGUST 1978, THESE RESTRICTIONS WERE MODIFIED, AND TODAY, IN FACT, VIRTUALLY EVERY SHADE OF POLITICAL OPINION IS OPENLY EXPRESSED BY ITS ADVOCATES. THE LATEST MODIFICATIONS ALSO PERMIT POLITICAL ASSEMBLY ON A GRANDER SCALE THAN HERETOFORE. AN IMPORTANT PART OF THE PRESS IS, OF COURSE, GOVERNMENT-OWNED, AND THIS PROVIDES HANDY VEHICLES FOR GOVERNMENT INFLUENCE OF PUBLIC OPINION. THE REGIME HAS RELAXED MOST OF THE FORMAL CENSORSHIP CONTROLS OF PREVIOUS GOVERNMENTS, HOWEVER, AND JOURNALISTS GENERALLY PERCEIVE THEMSELVES TO BE FREER THAN UNDER PREVIOUS GOVERNMENTS. THE ARREST OF JOURNALISTS AND PRESSMEN DURING A DISPUTE EARLIER THIS YEAR BETWEEN THE MARTIAL LAW AUTHORITIES AND TWO PRO-BHUTTO NEWSPAPERS AND THE HARSH PENALTIES THE GOVERNMENT METED OUT AT THAT TIME HAVE AT LEAST AN INDIRECT CONSTRAINING EFFECT ON PRESS FREEDOM.

THE CUSTOMARY ISLAMIC PRACTICE OF DENYING FULL PARTICIPATION OF MUSLIM WOMEN IN SOCIETY HAS NOT BEEN CONDONED BY THE PAKISTANI GOVERNMENT. ITS POSITIVE ATTITUDE TOWARD EXPANDING THE RIGHTS OF WOMEN HAS LED TO SUBSTANTIALLY INCREASED EDUCATIONAL FACILITIES FOR WOMEN AND ALTHOUGH POWER TENDS TO BE DERIVATIVE FROM THEIR SPOUSES' POSITIONS, MANY WOMEN HOLD POSITIONS OF RESPONSIBILITY. MRS. BHUTTO, WIFE OF THE PRESENTLY IMPRISONED FORMER PRIME MINISTER AND HIS ELDER DAUGHTER ARE BOTH POLITICALLY ACTIVE AND HAVE IMPORTANT FOLLOWINGS. MRS. WALI KHAN, WIFE OF ANOTHER IMPORTANT POLITICIAN, IS ALSO AN IMPORTANT POLITICAL LEADER. THE ALL PAKISTANI WOMEN'S FEDERATION IS A POWERFUL INTEREST GROUP IN THE COUNTRY AND HAS BEEN ABLE TO INFLUENCE THE GOVERNMENT'S ATTITUDE ON MANY ISSUES. IN RURAL AREAS, HOWEVER, NON-PARTICIPATION REMAINS A COMMON PRACTICE.

THE LABOR MOVEMENT IN PAKISTAN IS LIMITED BY THE RELATIVELY SMALL

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SIZE OF THE INDUSTRIAL SECTOR. UNIONS ARE, HOWEVER, IMPORTANT IN THE LARGE CITIES, AND IN THE PAST THE SUPPORT OF UNIONS HAS BEEN

A SIGNIFICANT FACTOR IN THE POLITICAL PROCESS. MARTIAL LAW

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REGULATIONS CURRENTLY PROHIBIT BOTH STRIKES AND POLITICAL
ACTIVITY BY UNIONS, AND A STRIKE BY JOURNALISTS' UNION RESULTED,
AS NOTED ABOVE, IN ARRESTS AND DETENTIONS.

(B) FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL AND
EMIGRATION
RESTRICTIONS ON TRAVEL ARE ENFORCED MAINLY ON A LIMITED NUMBER OF
POLITICAL OPPOSITION LEADERS. THERE HAVE BEEN MANY INSTANCES IN
WHICH POLITICAL ACTIVISTS HAVE BEEN PLACED UNDER HOUSE ARREST OR
HAVE BEEN RESTRICTED WITH REGARD TO FOREIGN TRAVEL. A MARTIAL LAW
REGULATION RECENTLY PROMULGATED IMPOSES A PENALTY OF UP TO
FOURTEEN YEARS' CONFINEMENT AND CONFISCATION OF PROPERTY FOR
PERSONS FAILING TO APPEAR BEFORE A MILITARY OR CIVILIAN INQUIRY.
THIS IS REPORTEDLY AIMED AT PROMINENT OPPOSITION POLITICIANS WHO
HAVE FLED THE COUNTRY, AND THIS WILL MAKE IT MORE DIFFICULT FOR
OTHER OPPOSITION POLITICIANS TO LEAVE, AS WELL AS RESTRICT THE
RETURN OF THOSE WHO HAVE ALREADY DONE SO. PAKISTANI WORKERS ARE
FREE TO EMIGRATE TO WORK ABROAD; THE GOVERNMENT ASSISTS THEM TO
DO SO AND ACCEPTS THEM ON THEIR RETURN.

(C) FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS
GENERAL ZIA UL-HAQ IN 1977 OUSTED THE BHUTTO REGIME WHICH CAME TO
POWER BY A MAJORITY VOTE, CLAIMING THAT THE OUSTER WAS NECESSARY
BECAUSE OF RIGGING OF ELECTIONS, ARBITRARY DETENTION OF THOUSANDS
OF POLITICAL PRISONERS, WIDESPREAD CORRUPTION, A BREAKDOWN OF LAW
AND ORDER, AND THE THREAT OF CIVIL WAR.

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THE NEW REGIME PROMISED TO REVERSE THE CORRUPT PRACTICES OF THE FORMER GOVERNMENT AND TO RETURN POWER TO CIVILIAN AUTHORITY THROUGH THE ELECTORAL PROCESS LATE IN 1977.

IT HAS POSTPONED THE PROMISED ELECTIONS AND IS NOW SUGGESTING THEY WILL BE HELD SOMETIME IN 1979.

THE TRIAL OF THE FORMER PRIME MINISTER AND SOME OF HIS ASSOCIATES HAS LED TO CHARGES OF USE OF THE COURTS BY THE MILITARY REGIME FOR POLITICAL

PURPOSES, BUT THE APPEALS PROCEDURE APPEARS TO BE PROCEEDING AS THE JUDGES, AND NOT THE REGIME, DIRECT.

4. GOVERNMENT ATTITUDE AND RECORD REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

BEFORE ITS DEMISE, THE BHUTTO GOVERNMENT REJECTED REQUESTS BY AMNESTY INTERNATIONAL TO INVESTIGATE THE HUMAN RIGHTS SITUATION IN PAKISTAN. THE NEW REGIME RECEIVED AN AMNESTY INTERNATIONAL DELEGATION IN JANUARY OF 1978, GIVING THAT ORGANIZATION'S DELEGATION A CORDIAL RECEPTION AND PERMITTING THEM TO DISCUSS HUMAN RIGHTS MATTERS FREELY WITH MANY PEOPLE. AMNESTY INTERNATIONAL ISSUED A SHORT REPORT IN APRIL, 1978 WHICH CONDEMNED THE USE OF CRUEL AND UNUSUAL PUNISHMENTS, SUCH AS FLOGGING OF ORDINARY CRIMINALS, DISCUSSED CRITICALLY THE MARTIAL LAW RESTRICTIONS ON POLITICAL ACTIVITY, FREE EXPRESSION AND THE CIVIL COURT SYSTEM, AND WHILE NOT FINDING THE BHUTTO CASE STRICTLY A HUMAN RIGHTS CONSIDERATION, URGED THAT THE DEATH PENALTY NOT BE USED IN THE CASE OF THE CONVICTED FORMER PRIME MINISTER. THE PAKISTANI GOVERNMENT DID NOT RESPOND TO AMNESTY'S REPEATED INVITATION TO PROVIDE ITS PREPUBLICATION COMMENTS ON THE LIMITED OFFICIAL USE

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DRAFT AMNESTY REPORT, SO AMNESTY INTERNATIONAL PROCEEDED TO PUBLISH WITHOUT SUCH COMMENT. THE GOVERNMENT HAS NOT COMMENTED ON THE AI REPORT.

THE GOVERNMENT OF PAKISTAN HAS NOT INTERFERED WITH THE EXISTENCE OF "THE HUMAN RIGHTS SOCIETY OF PAKISTAN" WHICH INCLUDED AS OFFICERS LEADING PAKISTANI ELDER STATESMEN AND AT LEAST ONE PROMINENT LABOR LEADER. THE HUMAN RIGHTS SOCIETY HAS SPOKEN OUT PUBLICLY AGAINST THE IMPOSITION OF THE DEATH PENALTY FOR BHUTTO. A GROUP OF PRIVATE ATTORNEYS IN PAKISTAN HAS ORGANIZED TO PROVIDE LEGAL AID TO PERSONS DETAINED FOR POLITICAL ACTIVITIES. THERE IS ALSO THE PAKISTAN FORUM FOR CIVIL LIBERTIES WHICH IS SAID TO BE COMPILING A HISTORY OF CIVIL LIBERTIES SUPPRESSION IN PAKISTAN

DURING THE PAST THIRTY YEARS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, REPORTS, AMENDMENTS, ANNUAL REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 14 sep 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978ISLAMA08908
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780409-0686, D780374-0076
Format: TEL
From: ISLAMABAD
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780967/aaaacdmc.tel
Line Count: 388
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: d465b350-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 8
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 320406, 78 STATE 230406
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1436215
Secure: OPEN
Status: NATIVE
Subject: 1978 HUMAN RIGHTS REPORT ON PAKISTAN
TAGS: SHUM, PK
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/d465b350-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014